

PLANNING COMMISSION AGENDA
CITY OF NEWPORT BEACH
COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
Thursday, May 17, 2012
Regular Meeting – 6:30 p.m.

MICHAEL TOERGE
Chair

BRADLEY HILLGREN
Vice Chair

FRED AMERI
Secretary

TIM BROWN
KORY KRAMER
JAY MYERS
LARRY TUCKER

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

**BRENDA WISNESKI, Deputy Community
Development Director**

LEONIE MULVIHILL, Assistant City Attorney TONY BRINE, City Traffic Engineer

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. Staff reports or other written documentation have been prepared for each item of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200. The agendas, minutes, and staff reports are also available on the City's web site at: <http://www.newportbeachca.gov>.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

NEWPORT BEACH PLANNING COMMISSION AGENDA
Council Chambers – 3300 Newport Boulevard
Thursday, May 17, 2012
REGULAR MEETING
6:30 p.m.

- A. CALL TO ORDER**
- B. PLEDGE OF ALLEGIANCE**
- C. ROLL CALL**
- D. PUBLIC COMMENTS**

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the tablet provided at the podium.

- E. REQUEST FOR CONTINUANCES**
- F. CONSENT ITEMS**

ITEM NO. 1 Minutes of May 3, 2012

RECOMMENDED ACTION: Approve and file.

- G. PUBLIC HEARING ITEMS**

ALL TESTIMONY GIVEN BEFORE THE PLANNING COMMISSION IS RECORDED. SPEAKERS MUST LIMIT REMARKS TO THREE (3) MINUTES ON ALL ITEMS. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Please print only your name on the pad that is provided at the podium.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours.

ITEM NO. 2 Cornerstone Securities Residential Addition - (PA2012-027)
SITE LOCATION: 245 Evening Canyon Road

SUMMARY: A request for a variance and modification permit to allow a 2,012-square-foot addition to an existing 2,783-square-foot nonconforming single-family residence. The structure is nonconforming because the existing residence encroaches between seven and 11 inches into the required 6-foot right side yard setback. A variance is requested to allow a 72 percent addition and a second floor addition that would project into the southerly side yard setback, in-line with the existing nonconforming residence. The applicant also requests a modification permit to allow two garage parking spaces and two driveway parking spaces, where three garage spaces are required because the proposed gross floor area exceeds 4,000 square feet in area.

CEQA COMPLIANCE: The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

RECOMMENDED ACTION: 1) Continue the item to the June 7, 2012, Planning Commission Meeting.

ITEM NO. 3 Newport Banning Ranch - (PA2008-114)
SITE LOCATION: 5200 West Coast Highway

SUMMARY: A proposed planned community on a 401.1 acre project site for development of 1,375 residential dwelling units, a 75-room resort inn and ancillary resort uses, 75,000 square feet of commercial uses, approximately 51.4 acres of parklands, and approximately 252.3 acres of permanent open space.

CEQA COMPLIANCE: An Environmental Impact Report (EIR) SCH No. 2009031061 to evaluate the environmental impacts resulting from the proposed project. The EIR has been prepared in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.).

RECOMMENDED ACTION: 1) Continue the item to the June 7, 2012, Planning Commission Meeting.

H. NEW BUSINESS

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 4 Community Development Director's report.

ITEM NO. 5 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

ITEM NO. 6 Request for excused absences.

ADJOURNMENT

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, May 3, 2012
REGULAR MEETING
6:30 p.m.

A. CALL TO ORDER – The meeting was called to order at 6:30 p.m.

B. PLEDGE OF ALLEGIANCE - Led by Commissioner Myers.

C. ROLL CALL

PRESENT: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker

Staff Present: Kim Brandt, Community Development Director, Brenda Wisneski, Deputy Community Development Director, Michael Torres, Deputy City Attorney, and Tony Brine, City Traffic Engineer,

D. PUBLIC COMMENTS

Chair Toerge invited comments from those in the audience who wished to address the Commission on other than Agenda items.

Jim Mosher noted the recommendations for the first two items on the Agenda are to continue them because of the need to re-notice them to comply with the provisions of the Newport Beach Municipal Code. He mentioned that he had something to do with that and apologized for the inconvenience caused to the affected people. He thanked staff for their prompt response in correcting the problem. He suggested placing advertisements in the newspaper as well as on the City's website, in the future. He listed the information that was missing was essential and felt that if past meetings were improperly noticed, it should be determined if they had an impact on past approvals and denials.

Seeing and hearing no one else wishing to address the Commission, Chair Toerge closed the public comments section of the meeting.

E. REQUEST FOR CONTINUANCES

Community Development Director Brandt reported that staff is requesting that Item No. 2 on the agenda be continued to May 17, 2012, and Item No. 3 to June 21, 2012.

Discussion followed regarding continuing Item No. 2 to the first Planning Commission meeting in June, since the Banning Ranch Project will be presented at the May 17, 2012, and should be a long meeting.

Motion made by Commissioner Tucker and seconded by Commissioner Brown, and carried (7 - 0) to continue Item No. 2 to the Planning Commission meeting of June 7, 2012.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES: None.
ABSTENTION: None.
ABSENT: None.

Chair Toerge noted a request for continuance for Item No. 3.

Motion made by Commissioner Tucker and seconded by Commissioner Myers, and carried (7 - 0) to continue Item No. 3 to the Planning Commission meeting of June 21, 2012.

Interested parties were invited to address the Commission on this item.

Jim Mosher indicated when the matter was first heard by the Planning Commission, the staff reported mentioned the Airport Land Use Commission was planning to review the issue on May 17, 2012. He asked if the Airport Land Use Commission would still be able to review or whether the hearing has been postponed.

Assistant Planner Whelan affirmed that the hearing has been postponed.

Community Development Director Brandt indicated generally the staff attends the Airport Land Use Commission between the Planning Commission and City Council hearings. The item will not be presented to the Airport Land Use Commission until the Planning Commission makes its recommendations.

Seeing and hearing no one else wishing to address the Commission on this item, Chair Toerge closed the public comments section.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES: None.
ABSTENTION: None.
ABSENT: None.

F. CONSENT ITEMS

ITEM NO. 1 Minutes of April 19, 2012

Motion made by Commissioner Myers and seconded by Commissioner Tucker, and carried (7 - 0) to approve and file the minutes from the Planning Commission Meeting of April 19, 2012, as corrected.

Interested parties were invited to address the Commission on this item.

Jim Mosher pointed out minor corrections.

Seeing and hearing no one else wishing to address the Commission on this item, Chair Toerge closed the public comments section.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES: None.
ABSTENTION: None.
ABSENT: None.

G. PUBLIC HEARING ITEMS

ITEM NO. 2 Cornerstone Securities Residential Addition - (PA2012-027)
SITE LOCATION: 245 Evening Canyon Road

Motion made by Commissioner Tucker and seconded by Commissioner Brown, and carried (7 - 0) to continue Item No. 2 to the Planning Commission meeting of June 7, 2012.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES: None.
ABSTENTION: None.
ABSENT: None.

ITEM NO. 3 Newport Place Affordable Housing Amendment - (PA2011-215)
SITE LOCATION: Newport Place Planned Community (PC-11) Area bounded by MacArthur Boulevard extending westerly bounded by Jamboree Road, Bristol Street North, and Birch Street

Chair Toerge noted a request for continuance for Item No. 3.

Motion made by Commissioner Tucker and seconded by Commissioner Myers, and carried (7 - 0) to continue Item No. 3 to the Planning Commission meeting of June 21, 2012.

Interested parties were invited to address the Commission on this item.

Jim Mosher indicated when the matter was first heard by the Planning Commission, the staff reported mentioned the Airport Land Use Commission was planning to review the issue on May 17, 2012. He asked if the Airport Land Use Commission would still be able to review or whether the hearing has been postponed.

Assistant Planner Whelan affirmed the hearing has been postponed.

Community Development Director Brandt indicated generally the staff attends the Airport Land Use Commission between the Planning Commission and City Council hearings. The item will not be presented to the Airport Land Use Commission until the Planning Commission makes its recommendations.

Seeing and hearing no one else wishing to address the Commission on this item, Chair Toerge closed the public comments section.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None.
ABSTENTION:	None.
ABSENT:	None.

ITEM NO. 4 Review of Preliminary Fiscal Year 2012-2013 Capital Improvement Program (PA2007-131)

Chair Toerge read title to the aforementioned item, opened the public hearing and called for a report from staff.

Assistant Planner Melinda Whelan presented details of the report noting the 2012-2013 Capital Improvement Program contains fifty-seven (57) projects with the majority of them involving repair and maintenance of existing facilities and are consistent with General Plan policies. She referenced Attachment PC-1 which includes projects that are new construction or removal/replacement of existing facilities and Attachment PC-2 provides a brief analysis of the projects and shows consistency with General Plan policies. She presented recommendations as listed in the report.

In response to an inquiry from Vice Chair Hillgren, Ms. Whelan reported that the City Charter and State Statute require that the Planning Commission review the projects and find consistency with General Plan policies.

Vice Chair Hillgren specifically addressed \$800,000 allotted for the Civic Center and felt that a lot more than that is being spent and asked what that amount is slated for.

Ms. Whelan responded the \$800,000 is a carry-over from the previous fiscal year.

It was noted that this was funded by City funds and the majority of the costs expended for the Civic Center was bonded money. This money is from the City budget to cover what needs to be done. It was noted that the Commission was not being asked to review the accounting, line-by-line, but determine if the projects are consistent with the General Plan policies.

Commissioner Kramer felt that more detail is needed to determine specific work being funded by the \$800,000.

Commissioner Myers agreed that additional detail is needed on a number of items.

Staff noted that the matter will be addressed with the Director of Public Works.

Staff reiterated that what was before the Planning Commission at this time is not consideration of the specific dollar amounts. That issue will be dealt with by Council. The Planning Commission is being presented with a list of projects to determine their consistency with the General Plan.

Commissioner Myers expressed concerns with some of the amounts and Chair Toerge questioned inclusion of the monetary amounts if the Commission is only to review the projects.

Commissioner Tucker requested a reading of Section 707C of the Charter.

Deputy City Attorney Michael Torres read the relevant section noting, "The Planning Commission shall have the power and be required to make recommendations to the City Council concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the City."

Discussion followed regarding considering the item in terms of the reasonableness of the expenditure.

Community Development Director Kimberly Brandt stated the Commission could put together a list of concerns to forward to the City Council. She added that if the Commission has questions regarding particular items staff can return to the Commission with responses at a later date, if need be.

Traffic City Engineer Tony Brine noted that this is a draft version and input from the Commission can be incorporated into the final document that will be considered by the City Council.

Commissioner Ameri felt that if the Commission is just to review the projects relative to their consistency to the General Plan, the issue of money is irrelevant. He suggested generating a list of projects and their description to consider.

Chair Toerge commented that the Charter does not limit the Commission to just look at recommendations of compliance.

Vice Chair Hillgren referenced other sections in the report analyzing what needs to be considered. He stated that he was comfortable with approving the list as written in the abbreviated section with no recommendations related to the associated financials. He added that the Commission would have an opportunity to observe any conditions of blight and report those to staff.

Community Development Director Brandt stated that staff has been going through a series of revitalization efforts and that the Planning Commission has looked at recommendations of the Lido Village Citizens' Advisory Panel and will be looking at a draft implementation plan from the Balboa Village Citizens' Advisory Panel.

Chair Toerge felt it appropriate to place concerns on the record to the degree that the Commission needs clarification as well as include the Commission's comments to the City Council so that they have an opportunity to understand how the Commission viewed the items.

Commissioner Myers felt that the Commission should be stewards of the City as well as Council.

Regarding Project Number 3, handwritten page 7, Commissioner Myers suggested having the contractors spec the design in a design bid format and have staff approve it. Regarding Project Number 4, handwritten page 8, Commissioner Myers felt \$150,000 for design and environmental seems high for a project that is \$500,000.

Chair Toerge added that it is for a parking lot and asked the staff if the site is zoned for a parking lot.

Mr. Brine indicated that the City Council recently stated their preference for keeping the site intact for the time being. He added that there is no plan to place a parking lot on the site, but simply to maintain and secure the site.

Regarding Project Number 5, Commissioner Myers felt that it requires further description.

Relative to Project Number 6, Commissioner Myers cited that it is an example of a project with no design expense because it is being designed by staff. He inquired as to why other projects of much lesser scope cannot be designed by staff.

Discussion followed regarding the item covering maintenance work, the size of the building, the need for further clarification of descriptions and the meaning of "re-budget."

Mr. Brine indicated the term "re-budget" refers to carrying over budget from last year's CIPs.

Commissioner Tucker commented that these are budget allocations rather than commitments to spend money. He indicated the numbers presented are staff's best estimate based upon how far along they are in terms of what something is likely to cost. Staff then has a five (5)-year plan as to when the various projects are implemented.

Mr. Brine affirmed the numbers are budgeted amounts in terms of preliminary cost estimates.

Commissioner Tucker felt that zeroing in on possible deficiencies may not prove productive for the Commission.

Chair Toerge reiterated that it would be appropriate to provide comments.

Commissioner Myers felt that the projects presented are consistent with the General Plan. However, relative to Project Number 11, he stated that there is a justification for every other project presented but no comment is included justifying this specific project.

Regarding Project Number 13, handwritten page 17, Commissioner Myers commented that it states plans and specifications will be prepared by staff, but it shows \$100,000 environmental line item.

Chair Toerge indicated that he had difficulty understanding how the locations work and asked for clarification.

Commissioner Tucker agreed for the need to expand the explanations for increased clarity.

Commissioner Myers addressed Project Number 14, handwritten page 18, and stated a contribution by Assessment District 3100, but noted that the contribution does not seem to be reflected in the budget.

Chair Toerge inquired regarding the scope of the work required for Project No. 15.

Commissioner Tucker felt a master schedule for the proposed improvements would be helpful.

Mr. Brine noted that staff has an in-house schedule that is revised quarterly and may be sent to the City Council for review. He will check to see if the document can be made public.

Vice Chair Hillgren suggested a clarification relative to setting a target date.

Regarding Project Number 19, Commissioner Tucker inquired regarding acquisition of right-of-way and staff affirmed that there would be right-of-way acquisition on this project.

It was noted that this project is two (2) years out in terms of construction and application has been made for Measure M funding.

Commissioner Myers addressed Project Number 20, handwritten page 24 stating he found the language confusing concerning the twenty-five (25%) percent fund-to-matching. He felt it warrants clarification.

Commissioner Tucker requested clarification of the specific location of the project and staff provided the information.

Regarding Project Number 21, Vice Chair Hillgren asked regarding the existence of a master plan for retrofitting towards ADA requirements for the City.

Mr. Brine reported that staff is currently completing a master plan of ADA improvements, which will outline all of the upcoming ADA improvements in CIPs.

Regarding Project Number 27, Commission Myers commented that although the description states that the project will be completed by outside consultants; there is no expense allotted for design and environmental.

Vice Chair Hillgren addressed Project Number 32 and inquired regarding the specific location and the proposal to build a pier on private property.

Deputy Community Development Director Brenda Wisneski noted that it should state that it is public dock and noted that this is a project that will be appearing before the Planning Commission in the future.

Regarding Project Number 38, Commissioner Tucker inquired regarding the status of Marina Park with the Coastal Commission.

It was noted that it is scheduled to appear before the Coastal Commission in June.

Chair Toerge inquired regarding the purpose of budgeting on a project without prior approval.

Mr. Brine noted that it is placeholder to make sure the budget is there, once the project is approved. He added that there was no bond money approved for the Civic Center project that did not go directly to the Civic Center.

Commissioner Tucker commented on Project Number 41 relative to the source of funds for the project.

Mr. Brine stated that the reason for this study is to get a better idea of the work involved and the cost involved in the projected CIPs. Discussion followed regarding the possibility of forming an assessment district.

Regarding Project Number 44, discussion followed regarding funding sources contribution, selenium issues, and Commissioner Tucker requested additional detail on the timeline and the challenges.

Commissioner Myers inquired regarding Project Number 48 and whether any effort has been made to recover money from the defective cover.

Mr. Brine reported that the City is currently engaged in litigation to recover costs.

Commissioner Myers commented on Project Number 49 noting that the plans and specifications are currently being prepared by consultants, yet no related costs are shown. He asked regarding whether water from Big Canyon Reservoir serves Peninsula Point.

Mr. Brine will follow up on the matter and return to the Commission with an answer.

Commissioner Tucker commented on Project Number 53 and asked regarding the source of the selenium-laden water. He requested additional detail.

Regarding Project Number 54, Commissioner Myers commented about recovering expenses from the developer.

Chair Toerge inquired about a recommendation by Corona del Mar for a "squeeze" lane to be built between Avocado and MacArthur and a related "test." He stated that no funds have been referenced for the project.

Mr. Brine explained that staff is waiting for direction from the City Council as to how to proceed with the project.

Chair Toerge explained the project further.

Vice Chair Hillgren asked whether the list is a comprehensive list of Capital items and specifically Cycling Task Force recommendations for improvements.

Deputy Community Development Director Wisneski reported there are eight (8) to ten (10) additional projects that staff presented to the City Council, that appear below the line of available General Funds. Ms. Wisneski added that the City Council is evaluating those additional projects to determine funding sources.

Mr. Brine added that there is an additional item for City-wide signage, striping, and marking. Staff has applied for a bicycle grant to help in funding.

Commissioner Tucker commented on Project Number 56 relative to a Waste and Reclaimed-Water Rate Study and asked about a master plan for reclaimed water throughout the City. He commented on a Waste-Water Rate Structure Review.

Interested parties were invited to address the Commission on this item.

Jim Mosher referenced the Charter Section 701(7C) and opined on the charter provision, stated that the Council is overloaded and that often these items "slip" by without much discussion. He felt comments expressed were beneficial and was pleased with the process but expressed concerns with additional items that were not addressed. He opined that the Commission should be involved in reviewing public works projects.

Steve Ray, Banning Ranch Conservancy, agreed that it is important for the Planning Commission to participate in this process. He commented on Project Number 42 regarding Sunset Ridge Park and being part of the Banning Ranch project. He noted that the General Plan only refers to Sunset Ridge Park, not the Banning Ranch property. He felt that the statement would be inconsistent with the element in the General Plan. He noted that the plan being presented to the Coastal Commission does not include access relative to Banning Ranch or to the habitat area. Regarding Marina Park, he suggested a reduction of height to the proposed monument in order to be consistent with the City's height limits.

Seeing and hearing no one else wishing to address the Commission on this item, Chair Toerge closed the public hearing.

Discussion followed regarding direction to staff to return with a "cleaned up" version consistent with the General Plan, the Charter provision, and the possibility of continuing the item.

Community Development Director Brandt presented options available including making the suggested adjustments and return to the Commission on June 7, 2012, and then forward it on to the City Council.

Commissioner Tucker suggested addressing the issue relative to Sunset Ridge Park.

Motion made by Commissioner Tucker and seconded by Vice Chair Hillgren, and carried (7 - 0) to continue the item to the Planning Commission meeting of June 7, 2012.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None.
ABSTENTION:	None.
ABSENT:	None.

H. NEW BUSINESS

ITEM NO. 5 Review of Rules of Procedures of the Planning Commission

Chair Toerge read the title to the aforementioned item, noting that he requested the item for the benefit of the newer Commissioners and addressed references in the document to a "Planning Director" noting the nomenclature is no longer in existence. He referenced Section 1; Page 7 regarding a staff liaison and felt it should be amended to reflect the City's organizational chart. Regarding Page 5, he suggested updating references to the "Planning Director, City Attorney and City Engineer" throughout the document. Chair Toerge addressed Page 7, Agendas, VII (B), regarding affording the public and opportunity to comment to the maximum extent possible. He referenced a recent project hearing where there was not adequate seating for everyone and asked regarding the policy upon that occurrence.

Commissioner Tucker referenced the increased capacity of the new City Hall facility and felt the issue would be addressed. He made grammatical corrections to specific areas in the text and suggested clarifying that when a Commissioner recuses himself/herself from hearing an item, he/she must be excused from the Chambers, not only the dais.

Regarding Page 9, Chair Toerge suggested inserting Roll Call between "Call to Order" and "Public Comments". He referenced "Additional Business" noting that there is a new style that should be reflected in the document. Regarding Page 10, he addressed a restriction that does not allow the presiding officer to make a motion. He suggested deleting exclusion of the presiding officer to make a motion.

Deputy City Attorney Torres noted that the item does not exclude the presiding officer from making a motion, but rather offers him the privilege to discuss an issue without a second.

Chair Toerge felt that a motion from any Commissioner should require a second before debate. Commissioner Tucker agreed with Chair Toerge's comments.

Commissioner Kramer inquired regarding the history of the legislative issue and expressed agreement with Chair Toerge's suggestion.

Regarding F – G, regarding submission of additional documents by applicants less than seven (7) days before a hearing where the Commission may continue the hearing without the applicant's consent, Chair Toerge noted that e-mail communication is often received the day of a hearing and felt it important to consider.

Regarding H, Chair Toerge addressed references to a "Planning Director" and his designee, Chair Toerge suggested adding "or her." He referenced e-mails sent directly to Commissioners, advances in technology and using electronic devices to research items during hearings. He questioned the appropriateness of doing so and expressed concern regarding possible perceptions that Commissioners are not listening. He felt that during hearings, Commissioners should not use electronic devices other than in emergency situations.

Vice Chair Hillgren felt that electronic devices are great tools but agreed that they should not be used during public hearings and comments, but that during conversations amongst Members and staff, the ability to use them may be useful.

Commissioner Brown concurred and added that is why staff is present; to provide required information.

Commissioner Tucker also concurred. He referenced a lawsuit in the City of Los Angeles where the City Council was not focused; he added that the case addressed allowing the public to comment, but not requiring officials to listen. The resolution was to vote them out of office.

Chair Toerge felt it important to listen to staff, the public and one another and not be distracted by electronic devices.

Commissioner Ameri stated that it is one example of how distractions can occur. He felt the general rule should be to not use electronic devices during a hearing, but only for emergency situations, outside the Chambers.

Commissioner Kramer indicated that he was not in favor of any restriction and inquired regarding the rule in City Council meetings. He agreed with using common courtesy but spoke in support of using technology.

Vice Chair Hillgren agreed with Commissioner Kramer's comments regarding having the proper resources, whether printed or electronic but felt common courtesy should be used in listening to the proceedings.

Chair Toerge noted these are public hearings, for the benefit of the public and expressed concern regarding a potential for criticism when Members are distracted and not participating. He suggested disallowing the conduction of personal business and reiterated his position.

Commissioner Tucker suggested language regarding using electronic devices for personal business but understood the use of electronic devices as resource tools.

Community Development Director Brandt recommended that staff receive all of the comments, draft amendments to the document, and return in June with a proposed draft that the Commission could consider and vote on.

Vice Chair Hillgren added that there is a need to establish a policy on the style of minutes produced, either general or verbatim. He suggested adding the item as a topic of discussion.

Chair Toerge commented positively on the transcription of minutes provided currently and agreed with documenting the issue.

Commissioner Ameri commented positively on the minutes as well.

Motion made by Commissioner Tucker and seconded by Commissioner Brown, and carried (7 - 0) to continue the item to the Planning Commission meeting of June 21, 2012.

Chair Toerge invited comments from those interested in addressing the Commission on this item.

Jim Mosher commented regarding "Secretary" and noted that the City Charter Section 704, states that the City Manager will designate a Secretary to record and preserve the minutes and felt that would imply that Commissioner Ameri would perform that task. Regarding Page 7, regarding Agendas, he addressed an issue regarding the recent Banning Ranch EIR meeting relative to inclusion of resolutions in the agendas. He suggested the agenda distinguish action items from discussion items and that a resolution not be considered unless it is noticed on the agenda. Regarding "Voting Procedures," he suggested specifying the designation of a quorum (i.e., four (4) Commissioners). Regarding "Disqualification under Conflicts of Interest," he noted that there is a City Council policy wherein even if there is a conflict that does not rise to the level where a Member does not need to leave the Chambers, it is supposed to be announced and recorded in the minutes. He also suggested announcing the receipt of Ex-Parte communications. Mr. Mosher addressed tie votes and suggested inserting language that four (4) affirmative votes are needed for resolutions to pass. Regarding "Reconsidering Actions," he noted the City Council allows reconsideration at the same meeting or a following meeting. He felt that if the Commission wants to reconsider an item, it be placed on the agenda for the next meeting. Regarding "Conduct of Meetings," he questioned the creation of the "three-minute" rule, its enforcement and the number of public comments allowed. He felt it appropriate to re-open the public comment period, if needed. He referenced the section on "E-mails" and making amendments to the rules. Regarding the later stated that if a motion is to be made, it should be announced that it will be at the next "proceeding" meeting.

Steve Ray, Banning Ranch Conservancy, agreed with Commissioner Tucker's comments regarding the use of electronic devices. He stated that he does not believe the current Commission has a problem with not paying attention, but felt that the Commission should be allowed to use whatever is comfortable for them. Regarding Page 7 under "Agendas," and accommodating the public, he stated that the procedure used in the City of Huntington Beach relative to overflow crowds to allow for public participation as well as in the City of Costa Mesa. He stated that Newport Beach does not have an allowance for the process and stated it is a fairly easy way to fix and suggested the Commission consider the issue, seriously. Regarding "Voting Procedures," he addressed State requirements regarding conflicts of interest, noting that it is important for Commissioners to show interest and need to follow State and City legal requirements. He referenced "E-mails" and he addressed the importance of the information for the Commission and the public. Mr. Ray stated related procedures in the City of Huntington Beach.

Seeing and hearing no one else wishing to address the Commission on this item, Chair Toerge closed the public comment period.

Chair Toerge agreed with separating the functions of staff secretary versus the Commission Secretary. He agreed with the suggestion to list a quorum as constituting four (4) Members. He did not support requiring four (4) votes when there are five (5) Commissioners present. He addressed motions to reconsider.

It was noted that a motion to reconsider would be to take a vote over at the same meeting or the next meeting. The Commission's By-Laws call for the motion to reconsider to be made at the same meeting, but would not be re-noticed.

Chair Toerge stressed the importance of communicating the issue to the public so that an applicant is aware.

Community Development Director Brandt suggested placing that in the agenda as an item.

Chair Toerge addressed the length of time given for individual public comment and the appropriate way to handle it is at the discretion of the Chair.

Commissioner Tucker addressed previous process for motions to reconsider and commented on the number of votes required. He also agreed with the three-minute rule for individual public comment. Regarding changing plans, he felt that it would be up to the discretion of the Commission and agreed with the present process.

Commissioner Ameri addressed the issue regarding the number of votes required, he agreed with a majority of the quorum in order to maintain efficiency.

Motion made by Commissioner Tucker and seconded by Commissioner Brown, and carried (7 – 0), to continue the Review of Rules of Procedure to June 21, 2012.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker

NOES: None.
ABSTENTION: None.
ABSENT: None.

Staff noted that the Commissioner comments have been recorded by staff and filed with the Community Development Director.

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 Community Development Director's report.

Community Development Director Brandt presented an update on 418 Carnation Avenue noting that staff is working with the property owner and his/her representative to ensure that the project complies with the City's Municipal Code. She asked the Commission contact her with specific questions regarding the project.

Regarding the pending lot merger for 2808 and 2812 Ocean Boulevard will be before City Council on Tuesday, May 8, 2012.

She stated that the City of Newport Beach Community Development Department today, lost a special member of the team, Marina Marelli, who fought a long a heroic battle against cancer. Ms. Brandt stated that Marina was a well-loved representative of the City, having worked for the City for more than fifteen (15) years. She will be missed by staff and the public she served and Ms. Brandt extended sympathy and condolences to her family and asked the Commission adjourn in her memory.

ITEM NO. 7 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

ITEM NO. 8 Request for excused absences.

None.

ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Toerge adjourned the meeting in memory and honor of Marina Marelli, at 8:37 p.m.

The agenda for the Regular Meeting was posted on April 27, 2012, at 11:47 a.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

Michael Toerge, Chairman

Fred Ameri, Secretary

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

May 17, 2012 Meeting
Agenda Item 2

SUBJECT: Cornerstone Securities Residential Addition - (PA2012-027)
▪ Modification Permit No. MD2012-008
▪ Variance Permit No. VA2012-001

SITE LOCATION: 245 Evening Canyon Road

APPLICANT: Daniel Kashani

PLANNER: Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

PROJECT SUMMARY

A request for a variance and modification permit to allow a 2,012-square-foot addition to an existing 2,783-square-foot nonconforming single-family residence. The structure is nonconforming because the existing residence encroaches between seven and 11 inches into the required 6-foot right side yard setback. A variance is requested to allow a 72 percent addition and a second floor addition that would project into the southerly side yard setback, in-line with the existing nonconforming residence. The applicant also requests a modification permit to allow two garage parking spaces and two driveway parking spaces, where three garage spaces are required because the proposed gross floor area exceeds 4,000 square feet in area.

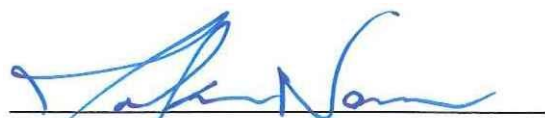
RECOMMENDED ACTION

Continue the item to the June 7, 2012 Planning Commission Meeting.

DISCUSSION

At the May 3, 2012 Planning Commission Meeting, the Planning Commission took action to continue this item to the June 7, 2012 Planning Commission Meeting to comply with the noticing provisions of the NBMC. However, a public notice had already been mailed out for the May 17, 2012 Planning Commission Meeting. Staff recommends this item be continued to the June 7, 2012 Planning Commission meeting agenda.

Prepared by:



Makana Nova
Assistant Planner

Submitted by:



Brenda Wisneski, AICP, Deputy Director



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
3300 NEWPORT BOULEVARD, BLDG. C
NEWPORT BEACH, CA 92658-8915
(949) 644- 3235**

Memorandum

To: Planning Commission
From: Patrick J. Alford, Planning Manager
Date: May 11, 2012
Re: Newport Banning Ranch – Request for Continuance

The applicant for the Newport Banning Ranch project requests that the May 17, 2012 public hearing on the project be continued to the next regular Planning Commission meeting on Thursday, June 7, 2012.

Attachment:

Email from the applicant requesting the continuance

Alford, Patrick

Subject: NBR Planning Commission May 17 Public Hearing

From: Michael Mohler [<mailto:mohler@brooks-street.com>]

Sent: Friday, May 11, 2012 11:03 AM

To: Wisneski, Brenda

Subject: Re: NBR Planning Commission May 17 Public Hearing

I will provide a letter if needed, or if it helps your preparation for next week please let this communication serve as our request to postpone the May 17 public hearing on NBR matters to the next Planning Commission hearing date.

Thank you.

Michael A. Mohler

Brooks Street

Newport Banning Ranch LLC

1300 Quail Street, Suite 100

Newport Beach, CA 92660